

Notice of Allowability

Application No.

09/911,513

Examiner

Ashwin Mehta

Applicant(s)

HARBERD ET AL.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers received 6 February 2004.
2. ☒ The allowed claim(s) is/are 50,51,55-59 and 61-70.
3. ☒ The drawings filed on 19 December 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/177,853.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date attached.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

03/16/2004 TPLUNKET 00000001 141140 09911513

01 FC:1252 410.00 DA

Art Unit: 1638

Claim Rejections

1. The rejections of claims 50, 53, 55-58, and 61-69 under 35 U.S.C. 112, 2nd paragraph are withdrawn, in light of the claim amendments.
2. The rejections of claims 49-59, and 61-69 under 35 U.S.C. 112, 1st paragraph are withdrawn, in light of the claim amendments.

Examiners Amendments

3. An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on March 15, 2004, Dr. Mary Wilson requested an extension of time for 2 MONTH(S) and authorized the Director to charge Deposit Account No. 14-1140 the required fee of \$410 for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the claims:

In claim 50, line 3, "90%" was replaced with --95%--.

In claim 51, line 4, "90%" was replaced with --95%--.

Art Unit: 1638

Claims 53 and 54 were cancelled.

In claim 55, lines 1-2, the recitation, “any one of claims 50, 51, 53 and 54” was replaced with, --claim 50 or 51,--.

In claim 56, line 1, the recitation, “any one of claims 49 to 54” was replaced with, --claim 50 or 51--.

In claims 58 and 59, line 2, the recitation, “any one of claims 49 to 54” was replaced with, --claim 50 or 51--.

In claim 62, line 2, the recitation, “, or extract of a plant” was deleted.

64. The method according to claim 63, wherein said nucleic acid is incorporated into the genome of said cell [which comprises recombining the nucleic acid with the cell genome nucleic acid such that it is stably incorporated therein].

In claim 65, line 1, the recitation, “which comprises” was replaced with, --further comprising--.

Art Unit: 1638

66. The method according to claim 65 further comprising asexually or asexually propagating or growing off-spring or a descendant of the plant regenerated from said plant cell, wherein said off-spring or said descendant comprises said nucleic acid.

In claim 68, line 2, the recitation, “any one of claims 49-54” was replaced with --claim 50 or 51--.

69. A method of repressing the growth of a plant, the method comprising introducing [causing or allowing expression from] the nucleic acid according to claim 50 or 51 into [any one of claims 50, 51, 53 and 54 within] cells of the plant and expressing said nucleic acid, wherein expression of said nucleic acid represses plant growth [is heterologous to said cells].

70. A method of delaying the flowering time of a plant, the method comprising introducing [causing or allowing expression from] the nucleic acid according to claim 50 or 51 into [any one of claims 50, 51, 53 and 54 within] cells of the plant and expressing said nucleic acid, wherein expression of said nucleic acid delays flowering time [is heterologous to said cells].

In the specification,

On page 1, the first sentence has been amended as follows:

Art Unit: 1638

This application is a continuation of Application No. 09/117,853, filed August 12, 1998 and now abandoned, which is a 371 of PCT/GB97/00390, filed February 12, 1997, the entire content of which is hereby incorporated by reference in this application.

On page 1, in between the first and second paragraphs, the following sub-heading was inserted: --BACKGROUND OF THE INVENTION--.

On page 3, in between lines 21 and 22, the following sub-heading was inserted:
SUMMARY OF THE INVENTION--.

On page 33, in line 7, the following sub-heading was inserted: --BRIEF DESCRIPTION OF THE DRAWINGS--.

On page 34, line 22, the following sub-heading was inserted: --DETAILED DESCRIPTION OF THE INVENTION--.

4. Claims 50, 51, 55-59, and 61-70 are allowed.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashwin Mehta whose telephone number is 571-272-0803. The

Art Unit: 1638

examiner can normally be reached from 8:00 A.M to 5:30 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson, can be reached at 571-272-0804. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and 703-872-9307 for After Final communications. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 15, 2004

A handwritten signature in black ink, appearing to read 'Ashwin D. Mehta', with a stylized, flowing script.

Ashwin D. Mehta, Ph.D.
Primary Examiner
Art Unit 1638